

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

HILLARY MARKS,	:	
	:	
Plaintiff	:	CIVIL ACTION NO. 1:20-194
	:	
v.	:	(JUDGE MANNION)
	:	
ANDREW SAUL, Commissioner of Social Security,	:	
	:	
Defendant	:	
	:	

ORDER

Pending before the court is the report of Magistrate Judge Martin C. Carlson, which recommends that the decision of the Commissioner denying plaintiff's claim for Supplemental Security Income be reversed and the action be remanded to the Commissioner for further consideration. (Doc. 16). No objections have been filed to the report and recommendation. Upon review, the report will be adopted in its entirety.

In considering plaintiffs' appeal in this matter, Judge Carlson has determined that plaintiff was prejudiced in her proceedings in at least three ways. Initially, Judge Carlson finds that the ALJ inappropriately implied that plaintiffs' pregnancy negated her claim of disability. Moreover, Judge Carlson finds that the ALJ's decision prematurely and improperly discounted

plaintiffs' mental impairments, finding at Step 2 that these impairments did not meet the *de minimus* threshold for finding a condition severe, even though an examining expert concluded that plaintiff suffered from marked impairments in multiple spheres of functioning. Finally, Judge Carlson finds that the ALJ failed to give meaningful consideration to plaintiff's obesity, concluding that plaintiff, who weighed 326 pounds, could "have frequent stairs, balance, kneel, stoop, crouch and crawl." (The court is unsure exactly what the ALJ was saying here, which is also concerning.) Finding that plaintiff's status as an unrepresented litigant contributed to the prejudice to plaintiff, Judge Carlson recommends that this case be reversed and remanded to the Commissioner for further proceedings. As indicated, neither party has filed objections to Judge Carlson's report and recommendation.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72(b), advisory committee notes; see also Univac Dental Co. v. Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court

may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

Upon review of Judge Carlson's report and recommendation, the court finds no clear error of record. Moreover, the court agrees with the sound reasoning which led Judge Carlson to his conclusions. As such, the court will adopt Judge Carlson's report in its entirety.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

(1) The report and recommendation of Judge Carlson (**Doc. 16**)

is **ADOPTED IN ITS ENTIRETY** as the decision of the court.

(2) The final decision of the Commissioner denying plaintiff's claims is **REVERSED**.

(3) The instant action is **REMANDED** to the Commissioner for further proceedings.

(4) The Clerk of Court is directed to **CLOSE THIS CASE**.

s/ Malachy E. Mannion

MALACHY E. MANNION

United States District Judge

DATE: June 8, 2020

20-194-01